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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,820	12/14/2000	Hao A. Chen	3620-036-01	8675

33432 7590 12/15/2005
KILYK & BOWERSOX, P.L.L.C.
400 HOLIDAY COURT
SUITE 102
WARRENTON, VA 20186

EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/736,820

Applicant(s)

CHEN ET AL.

Examiner

Jane Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 19, 20, 22, 23 and 27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 19-20, 22-23, 27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Rejections Withdrawn

1. The 35 U.S.C. 112 2nd paragraph of claim 5 has been withdrawn due to applicant's amendment filed on 9/27/2005.
2. The 35 U.S.C. 103(a) rejection of claims 1-6,22 over Fricke et al. in view of Peralt Anstalt has been withdrawn due to applicant's arguments filed on 9/27/2005.
3. The 35 U.S.C. 103(a) rejection of claims 19-20 over Fricke et al. in view of Peralt Anstalt and in further view of Park et al. has been withdrawn due to applicant's arguments filed on 9/27/2005.
4. The 35 U.S.C. 103(a) rejection of claim 23 over Fricke et al. in view of Peralt Anstalt and in further view of Park et al. has been withdrawn due to applicant's arguments filed on 9/27/2005.
5. The 35 U.S.C. 103(a) rejection of claim 27 over Fricke et al. in view of Peralt Anstalt and in further view of Andrews has been withdrawn due to applicant's arguments filed on 9/27/2005.

Rejections Repeated

6. The 35 U.S.C. 103(a) rejection of claims 1-2,4-6,19-20,22-23,27 over Park et al. in view of Skinner et al. has been repeated as previously made in office action 4/13/2005.
7. The 35 U.S.C. 103(a) rejection of claim 3 over Park et al. in view of Peralt Anstalt has been repeated as previously made in office action 4/13/2005.

Response to Arguments

8. Applicant's arguments filed 9/27/2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Park et al. teaches away from any other bonding means since Park et al. explicitly states that the segments of its composite structure are assembled without nails or glue, Park et al. teaches that preferably the groove and spline assembly occurs through the use of precisely machined splines attached each segment to at least one other segment, thus assembly of the segments occurs without use of nails or glue (col. 5 lines 47-50). Park et al. teaches that nails or glue are preferably not used however does not teach that they can't be used. Therefore, Park et al. does not teach away from any other bonding means since a mere preference is not an indication that other bonding means can not be used.

In response to applicant's argument that Skinner relates to joining flexible vinyl flooring and have no relevance to joining rigid polymeric flooring planks, nowhere did Skinner disclose that the vinyl flooring is flexible and nowhere did applicant disclose that polymeric flooring planks were rigid.

In response to applicant's argument that Peralt Anstalt does not teach or suggest polymeric planks, Peralt Anstalt discloses welding plastic sheets that are bonded by their edges (col. 1 lines 10-13 and col. 2 lines 78-80).

In response to applicant's argument that Peralt Anstalt is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or,

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if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Peralt Anstalt teaches bonding of plastic sheets at their edges using a welding solvent (col. 1 lines 10-13, col. 2 lines 78-80) and Park teaches bonding two polymeric planks at their edges.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jane Rhee
December 7, 2005



PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER